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# Caneel Bay contamination puts residents' health at risk

Oct 22, 2020



David R. DiGiacomo

Dear Editor,

*The following is the first part of an edited version of the letter, "Caneel Bay contamination puts residents' health at risk," written to Gary Engle of CBI Acquisitions, LLC dba as Caneel Bay Resort; Stan Smith, regional director, South Region, National Park Service; Peter Lopez, regional director, U.S. Environmental Protection Agency; Nigel Fields, superintendent of the Virgin Islands National Park and Gov. Albert Bryan Jr. The full letter, including pertinent documents, can be accessed at [www.virginislandsdailynews.com](http://www.virginislandsdailynews.com).*

I write as a citizen of the United States and as a property owner living on St. John, U.S. Virgin Islands, to provide you with this Notice of Intent to File Suit pursuant to the Resource Conservation and Recovery Act (“RCRA”), 42 U.S.C. § 6972(b) (1) & (2), Notice Pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) 42 U.S.C. §§ 9601–9657 and Notice Pursuant to the Clean Water Act, 33 U.S.C. §§ 1251–1376.

This notice is with respect to the property known as “Caneel” and concerns actual and potential RCRA, CERCLA and Clean Water Act violations by federal agencies with ownership and jurisdiction over the Caneel property and actual and potential violations by CBI Acquisitions, LLC (CBIA) and EHI Acquisitions, LLC (EHIA) which are the companies occupying Caneel and operating Caneel under the alleged authority of a Retained Use Agreement. It describes actual and potential contamination of the land and water at or on the property commonly known as “Caneel”. It also concerns potential RCRA, CERCLA and Clean Water Act violations by CBIA and EHIA with respect to demolition, remediation and construction activities after hurricanes Irma and Maria in 2017.

If we are unable to resolve this matter cooperatively, a lawsuit may proceed under RCRA for abatement of conditions that may present an imminent and substantial endangerment to health or the environment. Suit may also be brought under the Clean Water Act, and under CERCLA.

RCRA empowers plaintiffs to bring suit “immediately” in the case of an alleged violation of RCRA’s hazardous waste regulations and does not mandate a 90-day waiting period. In the interests of promoting a cooperative solution it is my intention to wait a reasonable time before filing a lawsuit. My hope is that you will contact me and agree to suspend current operations related to the Caneel site until you have performed a determination under the law that includes a full characterization of the sources of all waste and the remediation of all waste.

To the extent the laws of the Virgin Islands are applicable (I assert that federal laws apply) to a property owned by the U.S. government the improper storage, transportation and disposal of hazardous wastes violates the Virgin Islands Code at 19 V.I.C. 1558 & 1563. Other sections of the V.I. Code may also apply.

Furthermore, upon information and belief, your management of and remediation or non-remediation of solid and hazardous waste on the Caneel property may present an imminent and substantial endangerment to human health and the environment including damage to coral, fish, turtles, and rare and endangered plant species on or adjacent to the property. Turtles nest on one or more of the 7 beaches adjacent to Caneel.

The 2014 Environmental Site Assessment Report found the existence of a landfill near Honeymoon beach which had been used for over 50 years to dispose of all types of wastes. Staff reported that the deposited material is up to 15 feet thick in places.

The report found, *“The screening criteria exceedances in the surface soil at this site indicate that there is a concern for leachability of alpha chlordane, dieldrin, several SVOCs, PCB and selenium to groundwater.”*

Further assessment was recommended to determine the horizontal and vertical extents of the constituents in the soil at the site. If the site was used for waste disposal such site does not appear to have been approved by any governing agency. The site should be investigated as to determine the extent of waste and hazardous waste disposal. If the existence of hazardous waste is proven then the site should be remediated in accord with applicable laws.

The 2012 Level 1 Environmental Report (Part 1) (Part 2) by Barksdale and Associates and the site assessment concluded the following: There are a number of recognized environmental conditions (RECs) identified in connection with the property. These RECs are associated with: the maintenance and engineering area; the landscaping and grounds maintenance area; the wastewater treatment plant; the emergency generator building; the emergency generator fuel tanks; the marina; the former fuel storage tanks for the marina; and the debris landfill.

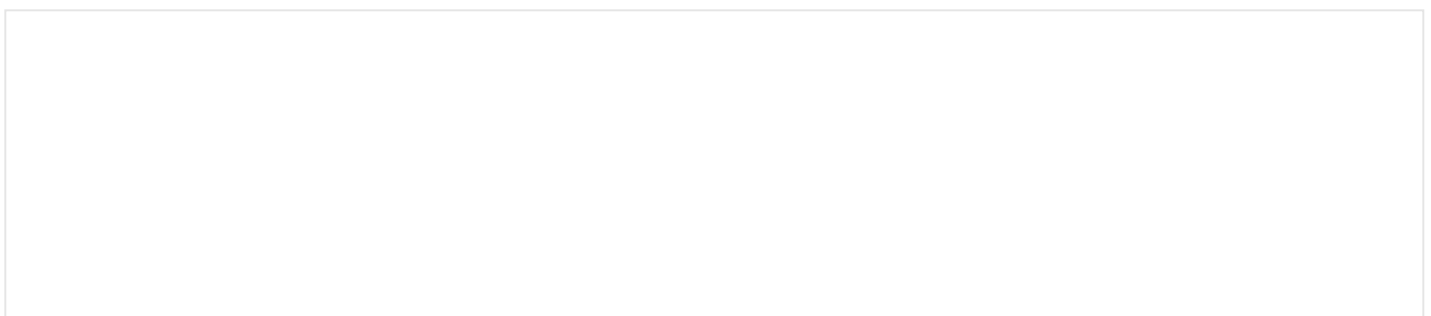
The 2014 Level II Environmental Site Assessment Report by Barksdale and Associates concluded the following: The results of this assessment indicate that a release of hazardous substances or petroleum products has occurred at all seven sites investigated for this Level II ESA. Additional assessment activities are recommended.

The 2017 Removal Site Evaluation Report (Part 1) (Part 2) prepared by 3E Consultants concluded the following: As identified through review of the above referenced documents and specifically the Level I Environmental Site Assessment (ESA) and a Level II ESA, the Caneel Bay property has seven sites with identified and confirmed contamination from operations at the resort. The areas of contamination are listed as Site 1 Engineering and Maintenance Area; Site 2 Engineering Area Former UST; Site 3 Grounds and Landscaping Chemicals Storage Sheds; Site 4 Grounds and Landscaping Equipment Maintenance Building; Site 5 Emergency Generator Building; Site 6 Waste Water Treatment Plant and Site 7 Debris Landfill.

Six of the sites have confirmed soil contamination with Site 2 being the only site confirmed with groundwater contamination. The chemicals of concern impacting soil at the above sites consist of pesticides, semi-volatile organic compounds (SVOCs), silver, arsenic, barium, cadmium, PCBs, selenium, and mercury. These soil impacts exceed the U.S. Environmental Protection Agency (EPA) Regional Screening Levels (RSLs) for soil screening protection of groundwater (SSL). Soil concentrations also exceed leachability criteria at these Sites; therefore, resulting in a potential for shallow groundwater environmental impacts. Groundwater contaminants of concern consists of benzene, ethylbenzene, naphthalene, and 1- and 2-methylnaphthalene. These groundwater concentrations exceed their respective RSLs for tap water.

After the receipt of the environmental assessment reports, it has been alleged that CBIA and EHIA would not allow access by the National Park Service to further determine the status of hazardous waste and environmental contamination at the Caneel site. There is no evidence that CBIA or EHIA allowed the Park Service to enter the site for the purpose of remediating the hazardous wastes. At a very minimum CBIA and EHIA, after receiving the three reports, should have undertaken a full assessment of the site and conducted a hazardous waste determination. They did not.

— *David R. DiGiacomo resides on St. John.*



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September 22, 2020

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Mr. Gary Engle  
 EHI Associates, LLC  
 Attention: Environmental Services of CBI Associates, LLC  
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 North Shore Road  
 Christ Church, Virgin Islands 00821

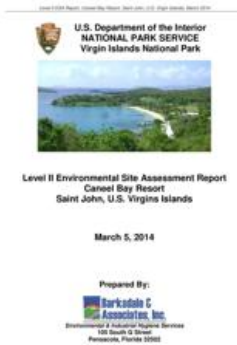
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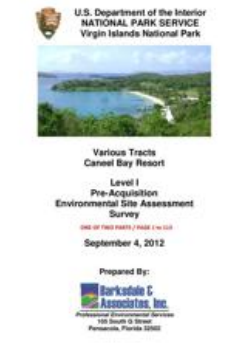
Mr. Paul Lopez  
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 Atlanta Federal Center  
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RCRA Notice to CBI and EHI and Engle  
 Oct 22, 2020



Level II ESA Report, Caneel Bay Resort  
 Oct 22, 2020



Environmental Site Assessment  
 Oct 22, 2020



Removal site evaluation  
Oct 22, 2020